



Signed: November 19, 2010

EDWARD D. JELLEN
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re

CURLEE C. DENNIS,

Debtor.

Case No. 10-47895
Chapter 11

Date: 11/18/10
Time: 2:30 p.m.
Ctrm: 215

DECISION

August P. Landis, Acting United States Trustee ("Landis"), has moved for conversion or dismissal of this chapter 11 case. The court will grant Landis's motion to dismiss.

Curlee C. Dennis, the above debtor ("Dennis"), filed a voluntary chapter 13 petition herein on July 13, 2010. On August 6, 2010, the court converted the case to chapter 11 on Dennis's motion.

Landis had scheduled an Initial Debtor Interview in accordance with his standing procedures for September 17, 2010. Dennis failed to appear.

The meeting of creditors required by Bankruptcy Code § 341(a) was set for September 20, 2010. Dennis failed to appear.

Landis had requested that Dennis furnish him with certain documents within 15 days following the conversion to chapter 11.

Decision

1 Dennis failed to produce the documents.

2 Dennis has failed to file monthly operating reports as required
3 by Bankruptcy Code §§ 1107(a) and 704(8), and by the U.S. Trustee
4 Guidelines in effect for this region.

5 Landis's motion is based on the foregoing violations by Dennis.
6 Bankruptcy Code § 1112(b)(4)(F),(G) and (H).

7 Dennis raises two defenses. First, she notes that on August
8 26, 2010, the court had held a status conference in the chapter 11
9 case. At that status conference, Asst. U.S. Trustee Margaret McGee
10 appeared and advised the court of various administrative problems
11 with the case. The court recommended that Dennis get legal counsel,
12 and continued the status conference to December 2, 2010. Dennis
13 argues that she misunderstood the court, and that she thought he had
14 until December 2, 2010 to take care of the problems.

15 The court rejects this defense. One major reason the court
16 continued the status conference was because the meeting of creditors
17 and Initial Debtor Interview had not yet taken place. And the court
18 certainly did not tell Dennis at the status conference that she was
19 free to skip the meeting of creditors, free to skip the Initial
20 Debtor Interview, free to disregard Landis's requests for
21 information, and free to ignore her duty to file operating reports.

22 Dennis also argues that she has filed a proposed plan and
23 disclosure statement and should be given the opportunity to obtain
24 confirmation of the proposed plan. The court has reviewed the
25 proposed plan, which is not confirmable for numerous reasons,
26 including a total lack of feasibility.

1 Dennis's major asset in this case is an overencumbered
2 residence, which apparently sits on a large lot (the "Property").
3 Dennis valued the Property at \$800,000 in her amended Schedule A.

4 Dennis's proposed plan calls for Dennis to litigate with Wells
5 Fargo Bank over its standing herein to assert a lien claim against
6 the Property, and following the successful conclusion thereof, to
7 borrow \$10.8 million dollars to develop the Property by building and
8 selling upper income homes thereon plus a green house in which she
9 will grow organic fruits and vegetables for sale to local farmers
10 and markets.

11 Dennis's opposition papers include an email from a
12 representative of CW Capital to a Mr. Montgomery of Kwanza Homestead
13 Capital Nevada LLC, whose address is the same as Dennis's, telling
14 Mr. Montgomery, and Dennis's daughter, Tanya Dennis, that CW would
15 consider providing financing in an unstated amount subject to
16 "appropriate due diligence, including US-HUD conditional mortgage
17 commitments for specific projects . . ."

18 Clearly, this is not a commitment to lend Dennis \$10.8 million
19 or any other amount. Dennis's argument that she can qualify for
20 \$10.8 million in financing to start up a new multi-unit construction
21 project and vegetable business on her overencumbered Property is, to
22 put it mildly, unpersuasive.

23 The court therefore holds that Dennis's proposed plan does not
24 mitigate against her numerous violations of her duties as a debtor
25 herein.

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1 The court expresses no opinion on the merits of Dennis's
2 lawsuit against Wells Fargo Bank. Upon dismissal, Dennis is free to
3 seek relief against Wells Fargo Bank in any forum of competent
4 jurisdiction.

5 The court requests Landis to submit a proposed order dismissing
6 this chapter 11 case.

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8 **END OF ORDER**
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Decision

COURT SERVICE LIST

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